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PRINCIPAL NAZI ORGANIZATIONS INVOLVED IN THE COMMISSION OF WAR CRIMES

THE GESTAPO

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Note on Sources

Since the activities of the Gestapo as well as its detailed organization were largely kept secret, only a few laws and documents of similar nature give information about the Gestapo. Consequently, it is a difficult task to provide authentic public documents in support of the points made. Thus the chapter on legal bases of the Gestapo contains reference to a number of laws (statutes, decrees, etc.) dealing with the subject matter and contained in such official statute books as the Reichsgesetzblatt. The later chapters, however, dealing with functions, organizational structure, personnel, etc., rely mainly upon secondary sources, of which the chief one has been the SHAEF study on the German Police (E.D.S./G/10, April 1945). Certain details concerning organization have been derived from the Taschenbuch für Verwaltungsbeamte (1943) and the Preussische Staatshandbuch (1939). Other details are based on confidential or secret documents of the Gestapo and related agencies, some of which have been appended to this paper.

I. LEGAL BASES OF THE GESTAPO

The foremost terror machine of the Nazi regime was the Secret State Police (Geheime Staatspolizei), better known as the Gestapo. Its members were responsible for a large number of crimes committed within Germany beginning in 1933 and later in areas outside the German Reich. In the following pages, it is not intended to describe specific acts for which the Gestapo was responsible but to present an outline of the structure and functions of the Gestapo as an organization. There is also presented a discussion of its jurisdiction over concentration camps, in which activity many criminal acts were involved. The present paper should be read in conjunction with the several papers dealing with the jurisdictional responsibilities of German organizations relating to various types of crimes and victims (e.g., crimes against Jews, political opponents, or religious groups).

The Gestapo was established as a special political branch of the police immediately upon the Nazis's accession to power on 30 January 1933. There was not at that time any central, Reich police agency; police matters were handled by the several states (Prussia, Bavaria, etc.). Consequently Gestapos were created in the different administrative units on the basis of the decrees and laws of the respective units.

Hermann Goering was probably responsible for the idea and initiative in setting up these special branches of police to terrorize and suppress the political opposition.[1] In his capacity as Prussian Minister of the Interior, Goering headed the Prussian police. The other states took

1. Hermann Goering, Aufbau einer Nation, pp. 87 ff.

Prussia as a model for the Gestapo set-up in their areas, for example, it was Heinrich Himmler, acting Police President of Munich who organized the Gestapo in Bavaria.[1] Since Prussia served as the pattern for the organization of the State Gestapo organizations, attention will be centered upon the legal bases of the Gestapo in this state until the Gestapo became a Reich institution in June 1936.[2]

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1. Basic law for Bavaria: Decree of the Bavarian Minister of the Interior, 1 April 1933.
2. The following decrees constituted the legal bases for the organization of the Gestapo in states and administrative units other than Prussia and Bavaria:
   Anhalt: Decree concerning the Reorganization of the Political Police, 29 March 1934, issued by the State Ministry.
   Baden: Decree of the Interior Minister concerning the Secret State Police Office, 26 August 1933.
   Braunschweig: Law regarding the Political Police in Braunschweig, 17 April 1934.
   Bremen: An ordinance by the Chief of Police, 16 June 1933, and decree of the Senator for the Interior, 13 July 1935.
   Hamburg: Decree of the Acting Mayor, 6 October 1933.
   Hessen: Ordinance of the State Commissioner for Police concerning the Organization of the Political Police, 28 March 1933.
   Lübeck: Decree of the Senator for the Interior concerning the Jurisdiction of the Secret State Police Office, 1 March 1935.
   Mecklenburg: Decree of the Interior Minister, 7 December 1933.
   Oldenburg: Decree of the Interior Minister on the Establishment of a Secret State Police Office, 4 November 1933.
   Saxony: Decree of the Council of Ministers concerning the Establishment of a Secret State Police Office, 5 July 1933, and Executive Decree of 2 August 1933.
   Thuringia: Act on the Establishment of a Secret State Police Office 4 December 1933; executive decrees of 4 and 22 December 1933, 28 May 1934, and 18 March 1935.
   Württemberg: Law of the State Ministry on the Political Police Department, 27 January 1934, with executive decrees of 3 February and 27 November.

A. In Prussia

A law of the Prussian State Ministry of 26 April 1933[1] officially established a Secret State Police Office (Geheimes Staatspolizeiamt) as the central authority to deal with the matters of a political police. The new office was located in Berlin. The law authorised the Prussian Minister of the Interior (Goering) to issue the regulations necessary for the implementation and execution of the act. The Minister of the Interior, on the same day, issued an executive decree,[2] which in its preamble defined the Gestapo as an organization for combating all tendencies directed against the existence and security of the state. For this purpose the Gestapo was given its own staff of police officials and its own regional offices. The Gestapo was to investigate all political tendencies, considered hostile to the state, report to the Minister of the Interior as head of the organization, and suggest measures to other police authorities. The decree further established regional State Police Offices (Staatspolizeistellen) as auxiliary offices of the Berlin Office at the seat of each Prussian Government District (Regierungsbezirk). The agencies of the general police, moreover, were obliged to report to the Gestapo offices all important political information and the Gestapo was empowered to issue orders and directives to such general police authorities in matters of political police. Furthermore, the Gestapo was authorized to act in matters of political crimes.

1. Law concerning the Establishment of a Secret State Police Office (Preussische Gesetzessammlung, 1933, p. 122).
2. Decree concerning Reorganization of the Political Police (Ministerialblatt für die innere Verwaltung, 1933, I, 503).

The organization of the Prussian Gestapo was further developed by other laws and decrees which added details of regulation or redefined certain rules. Thus a law dated 30 November 1933,[1] enacted by the State Ministry defined the Gestapo as "a separate (special) branch of interior administration," thereby establishing the organization as a special apparatus no longer constituting an integral part of any other administrative machinery. The position of Acting Gestapo Chief, which was already in existence, was formally recognized by the same law. The Acting Chief continued under the supreme direction of the Minister President as chief of the Gestapo. An executive decree to this law, dated 8 March 1934,[2] provided the Gestapo organization with a separate budget, which was put at the disposal of the Minister President as Chief of the Gestapo. The decree, furthermore, put at his disposal a separate staff of officials, over which he and the Acting Chief were given appointing and disciplinary powers. The same decree also created branch offices of the regional Gestapo offices and regulated the jurisdictions of the various offices in detail. The first Acting Chief, under Goering, was Senior Government Councillor Diels; after 20 April 1934 it was Heinrich Himmler. Thus, jurisdictional responsibility in Gestapo matters in Prussia, until the time they were taken over by the Reich, rested with Goering, the Minister President, and with Diels and Himmler successively. The main responsibility for Gestapo affairs in the regions rested with the chiefs and deputy chiefs of the State Police Offices.

1. Law concerning the Secret State Police (Preussische Gesetzessammlung, 1933, p. 413).
2. Preussische Gesetzessammlung, 1934, p. 143.

Final codification of Gestapo matters in Prussia was achieved with the enactment of the law of 10 February 1936[1] and the executive decree of the same date.[2] Article 1 of the law re-defined the functions and jurisdiction of the Gestapo in a form which remained valid for all Gestapo activities until 1945.[3] Article 7 stipulated that Gestapo orders and affairs were not subject to judicial review, a principle of great importance for the functioning of the terror apparatus and one which had already been accepted by the courts.[4] In practice, the article meant that no plea of habeas corpus, no suit for damages or any other legal claim could be made to any authority, if the Gestapo stated that the action or measure which was opposed belonged to its jurisdiction.

The executive decree of 10 February 1936 gave the Gestapo administrative powers in Gestapo matters over Prussian Provincial and District Presidents as well as all police authorities. For the first time it was also formally stated that the Gestapo was in charge of the administration of the concentration camps. Article 9 of the law declared invalid all previous laws and decrees relating to the Gestapo in Prussia.

Prior to the centralisation of Gestapo functions under the Reich, a large degree of unification of the state Gestapo organizations and functions had been achieved through the successive appointment of Himmler

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1. Law on the Secret State Police (Preussische Gesetzessammlung, 1936, p. 21).
2. Preussische Gesetzessammlung, 1936, p. 22.
3. See below, II, B.
4. See, for instance, decision of the Prussian Supreme Administrative Tribunal of 2 May 1935 (Reichsverwaltungsblatt 1935, p. 577). Other decisions, extending the principle also to ordinary civil courts, are printed and analysed in Werner Spohr, Das Recht der Schutzhaft (Berlin, 1937)

as Gestapo chief or sub-chief in the various states. Thus, after starting out in Bavaria in May 1933, he was made head of the Gestapo in Hamburg, Mecklenburg, Lübeck, Thuringia, Hessen, Baden, and Saxony in November 1933. By the time he had become deputy chief in Prussia in April 1934, Himmler practically dominated the Gestapo of the entire Reich.[1]

B. In the Reich

On 17 June 1936 all Gestapo affairs came under the direct jurisdiction of the Reich. On that day, a Hitler decree[2] appointed Himmler chief of the German police with powers to coordinate all police tasks in the Reich. Himmler reorganized the new Reich police by dividing it into Order Police and Security Police.[3] To the latter body were assigned the criminal police and the Gestapo, the latter remaining a separate branch of the administration within the new police setup. In practice, the structure and organization of the Gestapo which had been worked out in Prussia was now applied to the Reich Gestapo.[4]

Reinhard Heydrich became chief of the new Security Police, immediately subordinate to Himmler.[5] After Heydrich's death in 1942, Ernst Kaltenbrunner was appointed chief in January 1943.

The regional organization of the Gestapo remained much the same, with the Prussian system of State Police Offices, etc., extended to the

1. See Himmler, in: Wer Ists? 1935.
2. Decree on the Appointment of a Chief of the German Police in the Reich Ministry of the Interior (RGBl., I, 487).
3. Order by Himmler of 26 June 1936 (quoted in Die Deutsche Polizei, 1 February 1943, p. 43).
4. Orders by the Reich Leader SS and Chief of the German Police of 28 August, 20 September, and 1 October 1936.
5. Order by the Reich Leader SS and Chief of the German Police, 26 June 1936.

whole Reich.[1] Centrally, the Prussian Secret State Police Office at Berlin and the corresponding offices of the other states were merged in the Gestapo department of Himmler's new central police office for the Security Police. This latter office was the first designated as the Main Office Security Police (Hauptamt Sicherheitspolizei),[2] under the command of Heydrich; there were two Gestapo sections (one for internal matters, the other for defense affairs), under Mueller and Werner Best respectively.[3] In September 1939, the central structure of the Security Police was again reorganized,[4] when the departments of the Security Police were joined with those of the Security Service (SD) of the Party SS into one Main Security Office of the Reich (Reichssicherheitshauptamt, abbreviated RSHA). Within the RSHA Department IV (Amt IV) became the central Gestapo office.

The legal bases of the structure and organization of the Gestapo after its unification remained without strict definition and codification in Reich laws or decrees. Several internal orders, such as those by Himmler quoted above, regulated certain details, but, apart from this, the Prussian legislation was for the most part tacitly applied to the Reich.[5]

After the reorganization of June 1936, jurisdictional responsibility

1. Details will be described below, III, B, 1.
2. Its jurisdictions were defined by Himmler's order of 26 June 1936.
3. See Preussisches Staatshandbuch, 1939, pp. 19 ff.
4. Order by the Reich Leader SS and Chief of the German Police of 27 September 1939, with executive order of the same date, on the Joining of the Central Departments of the Security Police and the Security Service and the Establishment of the Reich Main Security Office.
5. See, for instance, Werner Best, Die Deutsche Polizei (1940), p. 37.

remained with Himmler, as Reich Chief of Police, including the Gestapo.[1] Under him were Heydrich and, later, Kaltenbrunner, as chiefs of the Security Police. Next in line were the chiefs, deputy chiefs, and staffs of the departments dealing with the Gestapo. (Later, these departments became a single department.) On the regional level, responsibility continued to rest with the chiefs, sub-chiefs, and personnel of the Gestapo (Main) Offices and other Gestapo agencies.[2]

1. Officially, by the Hitler decree of 17 June 1936, Himmler, as Reich Chief of Police, was still subordinate to the Reich Minister of the Interior, then Frick. Practically, he acted independently, and the relationship of subordination became meaningless when Himmler himself was appointed Interior Minister in 1943.
2. See below. III, B, 1.

II. FUNCTIONS OF THE GESTAPO

As can be seen from the outline of the legal bases of the Gestapo, it was the main aim of the legislation dealing with Gestapo matters to organize this terror apparatus so that it would appear to be simply part of the state's police administration.[1] In reality, the Gestapo was a separate instrument, organized with its own staff, its own budget, largely free from the legal limitations which still imposed themselves on other parts of the state machine. Acting secretly in most respects, the Gestapo in practice was closely coordinated with the most ruthless part of the Party's terror organization, the SS an the SD. In this form, the Gestapo was used wherever terror or the threat of terror could be utilized to establish totalitarian rule, or to execute policies and acts which, even under the Nazi regime, could not be openly admitted as legal or attributed to official sources. The Gestapo, therefore, has been found to have played a major role wherever and whenever major types of crimes, domestic or international have been committed under the auspices of the Nazi regime.

In order to be able to play this role, the Gestapo had in practice to develop certain principles which defined the scope and the means of its activities.

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1. Statements by high Nazi leaders pointing to the terroristic character of the organization are e.g. to be found in: Goering: Aufbau einer Nation, pp. 87 ff.; Himmler: Speech of 14 October 1943; Reinhard Heydrich: "Der Anteil der Sicherheitspolizei und der SD an den Ordnungsmassnahmen im mitteleuropäischen Raum," Die Deutsche Polizei, July 1, 1941

A. Scope and Types of Gestapo Functions

Legally and practically, the scope of Gestapo activities was almost unlimited. It was the very essence of such a machine in a totalitarian society that it have the right to determine itself the range of its jurisdiction and to rule, in specific cases, whether or not it might intervene. This right of what in German law has been called Kompetenz-Kompetenz (i.e., the right to determine one's own jurisdiction) was recognized by the principle embodied in Article 7 of the law of 10 February 1936, according to which acts of the Gestapo were not subject to judicial review. It was also implied in the additional principle, recognized by general practice and statements in Nazi literature, that, once the Gestapo had claimed a matter to be of "political" importance and thus falling within its jurisdiction, no other person or agency could contest such claim.

In actual practice, although the scope was in principle unlimited, the major fields of Gestapo activities can be distinguished.[1] They concerned:

1. The fight against internal opposition;
2. The execution of Nazi racial policies;
3. The supervision of foreigners and other suspect persons in Germany;
4. The fight against opposition in German-dominated countries;
5. The espionage and counter-espionage activities and certain subversive activities in neutral countries.

The fight against internal opposition called for the suppression of all persons and groups which, according to Nazi standards, were

1. For details, see special papers on crimes against political opponents, religious opposition, Jews.

considered as hostile to the state, i.e., as not being in line with the principles and policies of the Nazi regime. Included as hostile elements were not only outright political tendencies, such as communism, socialism, liberal-democratic tendencies, non-Nazi conservative opposition, dissident Nazi factions, but also suspect religious persons and tendencies such as opposition among Catholics, the Confessional Movement in the Protestant church, Baptists, Jehovah's Witnesses, etc. It further included all intellectual, artistic, or other cultural tendencies suspected of not being completely in line with the Nazi ideology, ranging from pacifism or insistence on "objective and non-evaluating" science to expressionism in art or similar manifestations of "Kultur-Bolschewismus."

The execution of Nazi racial policies comprised above all the implementation of the Nazi program to exterminate the Jews inside Germany and, later, in all German-occupied or German-dominated Europe. Also included in this program were such other racially "inferior" groups as Gypsies, etc.

Under the third category of Gestapo activities were included the supervision of foreigners and stateless persons residing in Germany insofar as their presence might have political implications. For instance, the Gestapo was responsible for the discipline of foreign workers and prisoners of war, the control of their movements, their relations with Germans (prohibition of sexual relations, etc.), and dealt with any foreign workers who refused to work.

The fourth field comprised activities abroad corresponding to those mentioned under the first item, and also repression of sabotage and resistance against the German occupation in general, even if such acts did not

emanate from any politically defined group. The Gestapo, in the case of an occupied enemy country, immediately followed the military forces and created special teams of Gestapo and SD agents, which would then proceed to the headquarters of political parties, labor unions, and other organizations, seize their files, and begin the roundup of political opponents, Jews, and persons considered as technical or intellectual key personnel.[1] Gestapo men, side by side with Waffen-SS formations and similar bodies, also were in charge of executing these policies by means of taking and liquidating hostages,[2] resorting to collective reprisals, setting up concentration camps, etc.

The espionage and allied work included investigation of, and possible under-cover action against, persons and groups in neutral countries considered enemies of the Nazi regime, as, for instance, German émigrés. Occasionally this activity resulted in such crimes as abduction of persons into the Reich. Toward the end of the war, espionage and counter-espionage activities were concentrated more and more in the Gestapo.

B. Gestapo Methods

As there was in practice no limit to the scope of Gestapo functions, it was practically unlimited also with respect to the means it applied.[3] Any rules laid down in this respect thus had a permissive, i.e., limit-destroying, rather than a limiting character.

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1. See, for instance, the description in Die Deutsche Polizei, 15 May 1942
2. See the usual announcements of execution of hostages, as signed by the SS and Police Chiefs or the Commanders of Security Police in the respective occupied areas, usually published in the official Nazi papers for the respective country or region.
3. Whether all these means, in their application, were legal under Nazi and international law will be discussed below, see VI, A.

Two basic laws constituted the foundation of Gestapo authority regarding means and methods. The first was the Presidential Decree for the Protection of Nation and State[1] of 28 February 1933, which by suspending the fundamental rights of the Weimar Constitution, enabled the Gestapo to regulate, and for the most part suppress, the rights of free press, association, and assembly, and to interfere with the privacy of communications (censorship of letters, etc.), private property, and, above all, with personal freedom. The second basic rule was finally codified in Article 1 of the Prussian Gestapo law of 10 February 1936,[2] according to which "the Secret State Police has the task of investigating and combating all tendencies hostile to the state in the entire area of the state, of collecting and evaluating the result of the investigations, of reporting them to the state government, and of keeping informed, as well as providing with suggestions, the other authorities." This "commission" given to the Prussian Gestapo was generally recognized as tacitly extended to the Reich Gestapo after the nation-wide unification of the Gestapo.[3]

It was upon this rather innocuous sounding provision in the Prussian law -- a formulation which might be valid for the political police activities of any constitutional country -- that the Gestapo based all its actions, from seizures of "state-hostile" printed matter to confiscation of Jewish property, and "protective custody" in concentration camps. It made no

1. RGBl., I, 83.
2. See above, I, A.
3. See, e.g., Werner Best, op. cit., p. 37.

difference whether or not, in a specific case, procedures were inaugurated by other agencies. Thus, the Gestapo, in the case of a man suspected of treasonable activities, might resort to any of the following procedures: it could arrest him in its capacity of "criminal police" in political matters, prepare his case for trial, and have him tried by a court. If the court convicted him, the Gestapo could either disinterest itself in the case for the future, so that, after serving his sentence, the convicted person would be released and set free (subject, of course, to further surveillance of his activities by the Gestapo); or the Gestapo might consider the man as too dangerous to be set free after serving his sentence and therefore arrest him immediately afterward and put him into a concentration camp. If the court acquitted the man, the Gestapo could still arrest him and keep him in detention (cf. the well-known case of Pastor Martin Niemoeller). But the Gestapo was not obliged to bring the man to trial at all; it could put him into a concentration camp and there detain him indefinitely without trial. It also depended entirely on Gestapo discretion what treatment was to be meted out to the person after arrest: if considered sufficiently dangerous or reprehensible, an individual might be conveniently killed "while trying to escape" or "while attempting to resist the arrest," or he might be killed in any number of ways while in a concentration camp.

Certain rules regarding protective custody, all of a purely formal character, were laid down by the regime. Thus, a Prussian decree of 11 March 1934[1] determined which authorities were competent to order

1. The text was not published in any of the official gazettes but was printed in the periodical Deutsche Justiz 1934, p. 341.

protective custody (namely, the Gestapo Office in Berlin, the Provincial and District Presidents, the Berlin Police President, and the Gestapo Offices within their areas of regional jurisdiction). The decree provided, however, that the Party or Party organizations had no right to order such detention. It also provided that detention should be reviewed after one week by the chief of the Gestapo himself, to whom each arrest for protective custody was to be reported. These regulations, apparently adopted in order to maintain strict Gestapo control over measures of protective custody and to prevent any other agencies or organizations from performing such functions, were not intended to provide protection for Gestapo victims -- nor, for that matter, were these regulations capable of protecting individuals. These, as has been pointed out above,[1] had no legal remedy against any Gestapo measure. Later, an unpublished directive issued by the Reich Minister of the Interior to the Reich governors and state governments[2] repeated essentially similar rules.[3]

1. See above I, A.
2. Although unpublished, its major contents were summarized in Werner Spohr: Das Recht der Schutzhaft (Berlin 1937), pp. 13 ff.
3. Procedures regarding detention in concentration camps, as well as the organization of the camps themselves, will be discussed below. "Protective custody" as an institution was taken over by the Nazis from unwritten but generally recognized police law, according to which a person whose life was endangered, for instance by a mob, might be taken into custody by the police for his own protection until the danger was over. The Nazis perverted this institution for their own purposes without creating a new legal concept.

III. ORGANIZATIONAL STRUCTURE

As has been pointed out above,[1] the Gestapo was established first on a regional basis, in the various states, and then fused into a single, uniform Reich organization. At first, the Gestapo was a machine more or less attached to the general organization of the police, but gradually it was separated from it and emerged with its own organization and its own central and regional set-up. Later, the Gestapo established its separate branches for the occupied areas. A brief outline of this organizational structure is given in the following pages.

A. Central Organization

Prior to 1936, each state had its own central Gestapo office, called Secret State Police Office (Geheimes Staatspolizeiamt). Prussia for instance, had its office in Berlin. After the establishment of the office of the Chief of the German Police in June 1936, these central state offices were merged into the new Reich office dealing with matters of Security Police, first called Main Office Security Police and later, after its merger with the SS Security Service (Sicherheitsdienst -SD), the Reich Main Security Office (Reichssicherheitshauptamt - RSHA).[2]

Thus three major agencies representing three allied functions -- the Gestapo, the Criminal Police, and the Party SD -- were merged within the RSHA. This Main Office was divided into departments (Ämter), each

1. See Chapter I.
2. See above, I, B.

with a high-ranking SS leader as chief (Amtschef). The breakdown was as follows:

Amt I: Personnal (Personal); until 1943 under SS Gruppenführer Streckenbach, then under Erwin Schulz

Amt II: Organization, Administration, Legal Affairs (Organisation, Verwaltung, Recht); until 1943 under SS Standartenführer Siegert, then under Haenel

Amt III: Spheres of German Life (Deutsche Lebensgebiete, probably the SD central office); under SS Brigadeführer Ohlendorf

Amt IV: Investigation and combating of opposition (Gegnererforschung und Gegnerbekämpfung); the central Gestapo office; under SS Obergruppenführer Mueller

Amt V: Combating of Crime (Verbrechensbekämpfung); this was the central office of the criminal police; under SS Gruppenführer Nebe

Amt VI: Foreign Affairs (Ausland); dealing with intelligence, espionage, sabotage; under SS Standartenführer Schellenberg

Amt VII: Ideological Research (Weltanschauliche Erforschung und Auswertung); SS Oberführer Dr. Six

As appears from this breakdown, the RSHA combined various functions and activities, not all of which were connected with terror and political suppression. Such repressive activities were entrusted to Departments III and IV. Department III, the central office of the SD, was in charge of that huge intelligence and information service which the SS had originally established to investigate intra-Party tendencies and activities, including those of the highest leaders. Later this service was used more and more for investigation and intelligence in general. It thus became a kind of auxiliary service to the Gestapo wherever the latter lacked sufficient local and regional staff of its own.[1]

Department IV, the central office, was the nerve center of the Gestapo itself. It constituted such a huge and intricate organization

1. On details concerning the SD, see the special paper on SS organization.

that, in the following pages only a brief summary can be given.[1] A distinction must be made between the period after the summer of 1944, when military intelligence functions were transferred to the Gestapo, and the preceding period, when the office was subdivided into sections lettered from A to F, with subsections identified by numbers, e.g., IV A 1, and sub-subsections identified by lower case letters, e.g., IV A 1 a. According to available evidence, there was no clear-cut criterion according to which a function or matter was assigned to this or that section, subsection, or subdivision. Under the old set-up most matters of political opponents were handled in IV A, where IV A 1 a was in charge of leftist opposition and IV A 3 in charge of rightist and centrist movements; but IV A also dealt with such matters as combating of enemy sabotage and enemy propaganda (IV A 1 b) or terroristic attacks (IV A 2), while, on the other hand "ideological opposition," such as churches, Free Masons, and also Jewish affairs, were handled in Section IV B. Section IV C was mainly a central registry and also in charge of files and similar materials, but one of its subsections, IV C 2, was in charge of protective custody matters, particularly orders concerning imprisonment, detention, or release of concentration camp inmates.[2]

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1. For details see SHAEF study on the German Police (E.D.S/G/10, April 1945), pp. 51-56.
2. A captured document containing teletype directives issued by Heydrich to the various regional Gestapo agencies on coordinating the action against Jews in November 1938 may serve as an illustration of the activities of the Gestapo office. For further analysis of this document see special paper on anti-Jewish crimes; for specific activities of the central office with respect to concentration camps see below, V.

B. Regional Organization

With the respect to the regional organization of the Gestapo, a distinction must be made between the structure within the Reich and that in occupied territory.

1. Within the Reich. The central organization of the Security Police, particularly the Reich Leader SS and Chief of German Police and his Chief of the Security Police, established Higher SS and Police Leaders as major agents for regional policy coordination in the Reich with seats in the various Army Corps Areas. To each of the offices of these leaders were attached, for matters of Security Police and SD, Inspectors of Security Police and SD.

While these offices and agents were of major importance for Gestapo matters outside the Reich, they did not play such a role within the Reich,[1] where the major agencies for dealing with Gestapo matters regionally were special Gestapo offices called State Police Main Offices and State Police Offices (Staatspolizeileitstellen and Staatspolizeistellen).[2] These agencies had been established in Prussia as auxiliary agencies of the central office and had been attached to the various District Governments (Regierungen), the chief in each case being the head of the "political" desk in the District President's office. While thus formally under the jurisdiction of the District President, the chief of the State Police Office was in reality directly under the central Gestapo office. After the unification of Gestapo matters in the Reich, the regional structure as prevailing in

1. Toward the end of the war, however, they assumed more and more actual functions also over Gestapo matters.
2. For a list of agencies see Appendix.

Prussia was taken over, and State Police (Main) Offices were set up usually at each seat of a district government, or at the seat of the state government or Reich governor in states or Reichsgaue where there was no district government. Main offices were usually established at the seat of provincial governments or major state governments. At smaller places, the Offices or Main Offices established branch offices (Gestapo Aussendienststellen or Aussenstellen). While these branch offices were under the orders and directives of the respective Office or Main Office of their area, the Offices and Main Offices were self-contained units, the Main Offices having only certain rather vaguely defined powers of policy coordination over the Offices.

No jurisdictional connection seems to have existed between these offices and the provincial, district, and state governments in the later stage of developments. On the other hand, there seems to have been a close connection between Gestapo offices and the offices of the SD, which were usually established at the same place. Also, the regional Gestapo offices continued to give direct orders, and to use the staff, formations, and facilities of the local police, such as the Protective Police (Schutzpolizei - Schupos), gendarmerie, police presidents, Landräte, etc.

As to the internal organization of the regional Gestapo offices, they were generally organized into three main sections. While the first and third dealt with internal matters (budget, personnel, etc.), the second was divided into departments corresponding to those of the central office at Berlin, i.e., sections dealing with political opposition,

ideological opponents, Jews, etc.

These regional offices, according to official announcements published in almost every issued of the German Reichsanzeiger between 1941 and 1943, were engaged, among other things, in seizing the property of Jews and political opponents after their "liquidation" (deportation and usually extermination). It can be presumed that these same offices were in charge of the deportations themselves, whenever an order was issued from Berlin to make a region "free of Jews," etc.

2. Outside the Reich. In contrast to the Reich, Gestapo affairs in occupied territory were concentrated in the offices of the Higher SS and Police Leaders and were specifically in the hands of the adjutants in charge of Security Police and SD, called Commanders (Befehlshaber) and not Inspectors. This change in title already points to the fact that these officials were not, as in the Reich, mere coordinators but were actually in charge of administration of the various affairs of Security Police and SD. Therefore, separate State Police Offices like those in the Reich were not established. Gestapo matters were handled within the offices of the Commanders of Security Police and SD. These offices, in their internal organization, corresponded roughly to the RSHA. Thus the breakdown of the office of the Commander of Security Police and SD for Lorraine at Metz was the following:

Department I: Administration and Law
Department II: Budget and Finance
Department III: SD
Department IV: Gestapo
Department V: Criminal Police
Department J: Inspectorate

The Gestapo Department was organized as follows:

IVA: Communism, Marxism, sabotage, other political crimes, reactionary parties, resistance movements.
IVB: Churches and sects; Jews; Free Masons; confiscation of property belonging to persons or organizations hostile to the state.
IVC: Protective custody affairs.
IVD: Foreigners, asocial elements.
IVE: Anti-sabotage, prisoners of war.
IVF: Frontier Police.

Since Lorraine was practically annexed to Germany, the breakdown may have been somewhat different in other occupied areas. Gestapo affairs seem always to have been handled in Department IV of the office.

Commanders of Security Police and SD were usually located at the seat of the military commander or the civil administrator of an occupied territory, e.g., at Paris for France, at The Hague for the Netherlands.[1] In the Protectorate Bohemia and Moravia, there were apparently State Police Offices under the Commander of Security Police and SD.[2] Formally annexed territories, such as Austria and Western Poland, had, of course, the Reich structure of Gestapo administration, i.e., State Police Offices.

The organizational structure of agencies below the level of the Commanders of Security Service and SD varied. Thus, in the sphere of jurisdiction of the Commander at Strasbourg (German: Strassburg) there were three regional offices: Gestapo Einsatzkommando Strassburg; Gestapo Branch Office (Aussendienststelle) Muhlhausen, under Strasbourg; and Gestapo Branch Office, Colmar (German: Kolmar). In France, under the Commander of Security Police and SD in Paris there were Sipo Commands

1. For a list see Appendix.
2. See decree of 1 September 1939 (RGBl., I, 1681), concerning Organization of the Security Police in the Protectorate of Bohemia and Moravia.

(Kommandostellen) in the capitals of each département, and Branch Offices (Aussenstellen) at the administrative centers of each arrondissement. Besides, there were liaison officers with the Organisation Todt Construction Offices (O.T.-Oberbauleitungen) for the supervision of foreign workers.

Illustrative of the activities of the Gestapo offices in occupied territory, the following documents may be cited: announcements of the shooting of hostages signed by the SS and Police Leader for Belgium and Northern France;[1] an order by a Commander of Security Police and SD to "liquidate" inmates of Security Police and SD prisons and Jews rather than permit them to be liberated by the advancing enemy.[2]

In the regional organization of the Gestapo outside of Germany, a special set-up needs to be mentioned. Whenever the Nazis invaded another country, the Gestapo was put in charge of "solving" the Jewish question, first with the idea of forcing the Jews to emigrate, later with the purpose of achieving their outright extermination. For this purpose, special branches of the Gestapo were established, which on their face appeared as separate agencies not connected with the Gestapo organization, and which beside Gestapo agents, also comprised officials of other agencies connected with the handling of Jewish affairs. Thus, after the Anschluss, a Central Office for Jewish Emigration (Zentralstelle für jüdische Auswanderung) was created at Vienna; it was mainly concerned with the emigration of Austrian Jews, granting exit permits, the supervision of the liquidation of their property, etc. The same agency, with the same personnel, later appeared in Prague as the Central Office for the Jewish Question (Zentralstelle für die Judenfrage). It also went to the capitals of other countries and was eventually concerned with the organization of the mass deportation of the Jews of Europe to Polish ghettos and concentration camps.

1. News Digest, No. 1541.
2. See document, dated 21 July 1944, footnotes below.

C. Summary: Definition of the Gestapo

Generally, the Gestapo can be defined as that branch of the Nazi machinery which was established in order to combat enemies of the regime (in the broad sense given to the term by the Nazis) attacking or endangering the regime from within. In order to define more specifically the agencies comprised by the term "Gestapo," two main phases of development must be distinguished:

1. Until the unification of the Gestapo on a Reich basis under the command of Himmler as Reich Leader SS and Chief of the German Police, i.e., from 1933 to 1936, the Gestapo was part of the interior administrations of the various States. During this period the Gestapo thus comprised the various central Gestapo offices usually established at the capitals of the States -- all headed, from 1934 on, by Himmler -- as well as any regional or branch offices, such as the Prussian regional Gestapo offices set up at the District capitals. Closely connected with, though not constituting an integral part of, the Gestapo were the administrations and guards of the concentration camps, run, until June 1934, mostly by the SA, later by special SS formations.

2. From June 1936 to the end, the Gestapo formed part of the Reich police administration and as such comprised the following agencies:

Amt IV (Gestapo Office) in the Reich Main Security Office (RSHA)

The Economic and Administrative Main Office (WVHA) of the SS (up to 1942 Office of the Inspector of Concentration Camps as well as certain other agencies in the central SS administration), in particular Office Group D, dealing with concentration camps (cf. V, B, 2, below).

The office of the Reich Leader SS and Chief of the German Police, the Central SS agencies, as well as the other departments of the RSHA besides the Gestapo Office: These constituted the over-all central agencies for the Security Police and thus were policy-making also for the Gestapo.

The offices of the Higher SS and Police Leaders and their Inspectors (Commanders) of Security Police and SD: These agencies, although strictly speaking not part of the Gestapo, laid down regional policies for it and sometimes gave it immediate directives.

Regional Gestapo Offices and Main Offices, including all their branch offices.

Offices of the Commanders of Security Police and SD in occupied areas, including all subordinate agencies (Einsatzkommandos, etc.): These, in the occupied areas, were direct agents of the Gestapo.

Central Offices for Jewish Affairs, or whatever the name of special agencies established in occupied or annexed territory to deal with the liquidation of Jews.

Administration of concentration camps, including guard formations (SS Death's-Head Formations, etc.): The latter, while not forming an integral part of the Gestapo, were closely connected with its activities.

The SD (Security Service) of the SS: This organization, although not constituting part of the Gestapo organization as such, co-operated intimately with the Gestapo in all phases of its activity.

IV. PERSONNEL

The Gestapo itself was composed of officials and operatives dressed in plain clothes, although the organization employed for its extensive purposes uniformed formations of the police as well as such Party organizations as the SA.[1] The Gestapo officials had the status of police officials, and their formal civil service status, ranks, and titles corresponded to those of the other branches of the police. Actually, in terms of personnel the Gestapo was merged with the SS, for practically all of its members were selected from the SS, and the higher Gestapo officials all had high ranks in that Party organization. This development had begun when Himmler, chief of the SS, became head of the Gestapo, first in Bavaria and then successively in the other states. It culminated in the amalgamation of the Security Police, which included the Gestapo, with the SD in the Reich Main Security Office under the hitherto SD chief Heydrich. It found its expression in the title given to Himmler in 1936, "Reich Leader SS and Chief of the German Police," and in the fact that the Reich Main Security Office constituted a Party (SS) as well as a state (police) agency.

For its personnel, the most reliable and energetic persons which the Party could muster were selected, mostly from the ranks of the SS. Officers were specially trained at an SS Junker school and a special Gestapo leadership school in Berlin. Those individuals connected with interrogations or the administration of concentration camps are supposed to have undergone

1. Besides wearing civilian clothes, Gestapo members, as a secret service, were permitted to wear any Party or military uniform which appeared necessary for the purpose at hand.

a special training in "toughness" and sadistic methods. Women were included in the service.

V. JURISDICTION OVER AND ADMINISTRATION OF CONCENTRATION CAMPS[1]

The concentration camps constituted the core of Gestapo activities, detention in such camps the primary weapon by which it functioned. Indeed, the knowledge of the existence of these camps, in which unspeakable horrors were vaguely known to have been committed although details were purposely kept secret, was sufficient to fill the general population with that terror which constituted the basis of the regime. It was not infrequent that a man accused of activities "hostile to the state" would endeavor to be sentenced by a court to a long term of hard labor in a state prison in order to escape detention in a concentration camp.

In the following pages, only the general jurisdiction over, and the organization of the camps will be discussed, including those jurisdictions and agencies other than the Gestapo which were concerned with this field.

A. Historical

The "legal" basis for the establishment of camps by the police was the concept of "protective custody," under which the police, on the basis of the Emergency Decree of 28 February 1933,[2] considered itself justified in detaining any person suspected of tendencies hostile to the state or otherwise "reprehensible." The concentration camps were devised in order to deal with the great number of political opponents, mostly Communists and

1. For certain details, see paper on Concentration Camps in Germany (R and A Report No. 1844).
2. See above, II, B.

Social Democrats, who were arrested during the first terror wave early in 1933 and for whom the ordinary places of detention were found to be insufficient. Thus, in Bavaria, Himmler assembled the arrested persons at Dachau, and in Prussia, Goering gathered them at Oranienburg and other places. It is possible that the idea originated with Goering himself, who boasts of the new invention in his Aufbau einer Nation (p. 89). Until the relative eclipse of the SA in June 1934, it was mainly SA formations which were put in charge of concentration camps; later the SS, in particular the Death's Head Formations, were in charge.

For a victim to be detained in a concentration camp meant disappearance from ordinary life and deliverance to the absolute and arbitrary discretion of the Gestapo. This fact was established shortly after the creation of the institution, when the courts refused to claim any power of review of Gestapo acts. From then on, nothing that happened with respect to/or in the camps was reviewable or in any way appealable. Thus the camps multiplied first in Germany and then also outside. Both Germans and non-Germans were placed within the camps. Indeed, the camps were used for whatever purpose and activity the Gestapo indulged in, from mere detention of political opponents to the mass extermination of Jews, from dealing with recalcitrant foreign workers to torture and maltreatment of foreign political or intellectual leaders.

B. Central Jurisdiction

The large number of camps and the huge number of inmates finally required an elaborate organization to deal with the resultant administrative problems. Outside the local administration of the camps themselves, there was need for central jurisdiction in two respects: first, the jurisdiction

over imprisonment, transfer, and release of prisoners, which obviously could not rest with the camp administration; and, second, the over-all shaping of the regulations governing the administration of and the activities in the camps, and their central supervision. These two kinds of jurisdiction were exercised by separate departments within the central offices under Himmler.

1. Jurisdiction of the Gestapo Office. The Gestapo Office, i.e., Department IV of the RSHA, was responsible for ordering imprisonment, transfers, and release of prisoners. Custody orders were excuted by a special division in the Department and had to be signed by the chief of the RSHA himself (i.e., Heydrich, and, later, Kaltenbrunner).[1] Requests for orders could be made only by the following: Secret State Police (Main) Offices; Higher SS and Police Leaders; Inspectors of Security Police and SD; Commanders of Security Police and SD.

Outside these procedures, however, the central Gestapo Office had no jurisdiction.

2. Jurisdiction of the WVHA. All other matters concerning the camps, such as supervision of the administration of the camps by camp personnel, guard units, and prisoners, control of labor and industrial undertakings carried on in or outside camps by inmates, and handling of all official contacts between the camps and the outside world, were under the jurisdiction of the Economic and Administrative Main Office of the SS (SS Wirtschafts- und Verwaltungshauptamt, abbreviated WVHA), one of the main departments in the

1. In case of large-scale arrest, collective orders could be made out (Instruction of the RSHA of 4 November 1941, not published).

central organization of the SS in Berlin. The chief of this office was SS Obergruppenführer Oswald Pohl, assisted by his deputy, August Frank.

Jurisdiction of this office was the result of a rather complicated development, the details of which cannot be given here. Before the establishment of the WVHA jurisdiction over the camps was divided among a number of SS agencies. The most important of these was the office of a Leader (later: Inspector) of the Concentration Camps in the central office of the SS (first Eicke, later Richard Gluecks). This office was responsible for the control of the camp guards (including Death's Head Formations) and the entire internal administration of the camps. However, certain matters, such as control of buildings, construction work and other economic enterprises carried on in the camps, and supervision of prison labor, was placed in the Administrative Office[1] of the central SS. Frictions between the two set-ups led to a reorganization, in March 1942, through which the office of the Inspector of Concentration Camps was merged in the new so-called WVHA as Office Group (Amtsgruppe) D. The Inspector, SS Gruppenführer Richard Gluecks, was made head of the new Office Group.

Office Group D: Control and Administration of Concentration Camps (Führung und Verwaltung der Konzentrationslager), had its seat at Oranienburg, near one of the largest camps. It was organized as follows:

Department (Amt) I: Central Office responsible for general policy, coordination of activities, security arrangements, etc.; formerly under Arthur Liebehenschel, later Rudolf Hoess.

1. Later called Main Office for Administration and Economy.

Department II: Control of Prison Labor (Arbeitseinsatz der Haeftlinge), dealing with all matters of camp labor; chief, Gerhard Maurer.

Department III: Medical Administration (Sanitaetswesen und Lagerhygiene), responsible for all medical matters; chief, Enno Lolling.

Department IV: General Administration (Konzentrationslagerverwaltung), in charge of administration of camps and camp staff; chief, Anton Kaindl.

Office Group (C. for Construction) was concerned with inmates drafted into SS Construction Brigades. Office Group W (Economic Enterprises) was in charge of inmates working on SS enterprises.

In occupied territories, the WVHA administered camps through special SS Economists (SS Wirtschafter), special regional delegates attached to each Higher SS and Police Leader.

C. Administration of the Camps

Each camp itself was administered by a camp commander (Kommandant), whose office was divided into several departments:

I. Commanders Office
II. Political Department
III. Protective Custody Affairs
IV. Administration
V. Health
VI. Training and Orientation

The Political Department was headed by a Political Commissar, a Gestapo official responsible to the RSHA and controlled by the respective regional State Police (Main) Office. This instance is the only one where the regional Gestapo agencies took part in the administration of camps, and also the only instance in which the Gestapo assumed actual functions in the administration of the camps. It seems, however, that the functions

of this official were less than the title would indicate, and that he had mainly to do with controlling the transfer of inmates from one camp to another.

Under the commander, there was a Main Controller (Hauptwachtmeister) acting as the commander's adjutant and his deputy for general supervision; he, in turn, controlled the Local Controller (Platzmeister), in charge of working parties. Directly responsible for the various groups of inmates were the Camp Leaders (Schutzhaftlagerführer), of which there were one or more, according to the size of the camp, and who usually held the rank of SS Untersturmführer). Under each Camp Leader, there were a Rapportführer and a Arbeitsdienstführer (work supervisor). Command Leaders (Kommandoführer) supervised work performed outside the camp.

These persons usually constituted, in addition to the ordinary guards, the entire "official" staff of the camp. Below this level there was a good deal of "camp self-government" through inmates, the so-called "Capos", who were selected by the camp administration to supervise groups or blocks of prisoners. The Capos were put in charge of various camp affairs, such as conditions in the barracks and blocks, distribution of food and other goods, supervision of the specific work of certain groups, etc.; they were frequently entrusted with controlling and enforcing discipline. Although their position was in certain respects privileged, they were made responsible for their groups and tasks and sometimes entrusted with less enviable tasks, such as selecting prisoners to be shipped out for extermination. There was usually a Senior Inmate (Lagerältester), and, for each block, a Blockältester.

D. Formations Involved in Camp Administration

Originally most of the personnel chosen for guarding the camps was drawn from the SA (note, for example, the original name of camp Oranienburg: "Concentration Camp Oranienburg of the SA Standarte 208"), out from June 1934 on the SS was almost exclusively in charge of all camps. Specifically, a special formation of the SS, the SS Death's Head Formations (SS Totenkopf-verbände), was trained for the work and put in charge. These formations apparently originated, not from the General SS (Allgemeine SS) but from SS Special Commands (SS Verfügungstruppen) formed for such special purposes as constituting a bodyguard for Hitler and other high leaders, or guarding special Party buildings or concentration camps. Originally there were four Standarten: each of them for a big camp, such as SS Death's Head Standarte "Oberbayern," for Dachau, SS Death's Head Standarte "Brandenburg," for Oranienburg, etc. Later their number increased. Grades and ranks corresponded to those in the General SS.

In 1942, there were, in the Reich alone, allegedly 130 concentration camps, each manned by a Death's Head battalion, comprising, in all about 130,000 men. Leader of all the Death's Head Formations was at first the Inspector of Concentration Camps, Eicke; later when Eicke was made commander of a Waffen-SS Division "Totenkopf," his place was taken by Gluecks, who then became chief of Office Group D in the WVHA. Thus, there was personal identity between the commander of the camp guards and the chief of central camp control and supervision.

Within the Death's Head Formations, there were the following formations in particular:

General Guard Formations (Wachverbände), for ordinary tasks;
Patrols and raiding pursuit squads (Streifendienst und Rollkommandos), in charge of search for escaped prisoners;
Patrol and pursuit squads of the Hitler Youth (HJ Roll- or Jagd-kommandos), auxiliary formations to the Death Head squads, under Death Head command;
Special Purpose Units (Sonder-Verbände), which, among other tasks, furnished execution squads.

E. Main Groups of Camps and Inmates

Shortly after their creation, the camps began to be filled with various categories of inmates. To the "political prisoners" in the broadest sense were added certain types of persons convicted of ordinary crimes, particularly habitual criminals (Gewohnheitsverbrecher) and certain types of persons considered asocial (asoziale Elemente), such as mendicants and tramps. To these groups were soon added Jews and Gypsies. Later, political and intellectual leaders of occupied countries, together with foreign workers detained for various reasons and foreign Jews, sometimes formed the bulk of certain camps. The Gestapo was in charge of all of them, although it was the criminal rather than the state police which was in charge of ordering the detention and release of the common criminals among the inmates.

Reference has to be made to one main distinction among the types of camps. The "ordinary" concentration camp, in spite of the maltreatment of many inmates which led to a high death rate and which in frequent cases was intended to lead to the death of particular inmates, was not conceived as extermination camp, i.e., for the purpose of killing all inmates. Certain camps, however, later came to be established which had the single

purpose of being "annihilation" camps for ever-renewed waves of victims. The "ordinary" camp, during the war, even came to be more and more considered as a valuable source of labor for a great variety of enterprises, partly undertaken by and for the SS itself, and partly for private enterprises to which camp labor was farmed out.[1]

Extermination camps, on the other hand, most of them in Poland (Oswiecim, Maidanek, etc.), were established in pursuance of a program started in 1941 for the physical extermination of all European Jews. According to one source, the program was laid out by Adolf Aichmann, head of the Jewish desk in the central Gestapo Office, and adopted by his superiors leading up to Himmler and Hitler. While exterminations were at first done through mass shooting, it was found that it could be done more efficiently, more economically, and in a manner less noticeable to outsiders by suffocating in gas chambers large numbers of Jews assembled for this purpose in special camps. Deportation of Jews from the various parts of Europe was systematically organized under the central control of Aichmann and his staff, members of which followed the military forces into each newly occupied country in order to start the segregation and eventual deportation of Jews. Special shipments by trains of sealed freight cars, which in themselves frequently constituted the means of exterminating large numbers of the transportees en route, were organised likewise by SS officers from the central Gestapo staff. In each case, a declaration or way-bill, addressed to the commander of the extermination of camp, had to be made out and handed

1. See document attached as Appendix IV concerning the deportation of Jewish inmates of "ordinary" camps to Oswiecim or Lublin.

to the train leader. Without such a letter or a specific order by Aichmann, the commander was not authorized to kill the deportees on arrival. From the end of 1942 on, deported Jews were not killed indiscriminately, those found capable of working were allowed to live as long as they could work under the inhuman conditions in the camp, but were scheduled for eventual slaughter. Those too old, young, or feeble to work were gassed immediately.

As has been mentioned above,[1] the Gestapo in many cases established special agencies (Zentralstellen) for dealing with the Jewish problem in a particular country. In these cases, it also used the agencies for the organization of deportations.

VI. CRIMINAL RESPONSIBILITIES

A. Illegality of Actions

Gestapo crimes may have been perpetrated in various ways, i.e., by devising policies, instigating, ordering, and by executing acts. Whatever the manner of perpetration, such acts may be illegal and punishable for a variety of reasons.

1. Domestic Crimes. Crimes committed in Germany against German nationals or stateless persons are punishable by German penal law if the act in question can be brought under the provision of one of its definitions of crimes. As has been pointed out above,[2] the Gestapo was, by various laws, decrees, and legal interpretations, given a wide latitude as to the means of activities and coercion at its disposal. The setting up of concentration camps and the

1. See above, II, B.
2. See above, II, A.

detention therein of prisoners without appeal or time limit was thus laid down by Nazi law. It may be questioned whether and how far such repressive laws can, in themselves, be considered valid or invalid; in the latter case, no action could be regarded as justified simply because it was based upon such a law.[1]

Quite apart from this problem, however, it can easily be shown that the Gestapo, in its major policies and in innumerable actual cases, overstepped even the broad boundaries which the Nazi law had established. Thus, while indefinite detention in a concentration camp was permitted by law, maltreatment and killing of prisoners has never been claimed as legally justified by the Nazis themselves. This conclusion, apart from the statements of theoreticians and Party leaders quoted in the paper referred to in footnote one, can also be seen from such documents as, the camp regulations of the concentration camps with their "disciplinary and punishment codes."[2] These "codes," set up by the camp commanders without the slightest legal authorization, contained in themselves lists of "punishments" which in reality were simply excuses for maltreatment, torture, or killing. In many cases such "punishment" was almost impossible to avoid should a camp commander or other member of the staff decide to "get" an inmate for some reason or another. But the very fact that such "codes" were established even for concentration camps shows that the acts

1. On this problem, see special paper on Domestic Crimes, A. Zegal.
2. See, e.g. the Lagerordnung for the Concentration Camp Estorwege and Disziplinar und Strafordnung. This code served as model for other camps. For a summary of its contents see R and A Report No. 1844, pp. 9 ff. translated in SHAEF, Handbook on Axis Concentration Camps and Detention Centers Reported as such in Europe (E.D.S./G/6), Annexe B and Annexe C.

committed were not considered as justified without special reason. Wholesale extermination in the annihilation camps was perpetrated without even such flimsy attempts at excuse. Such acts were kept secret as far as possible and their perpetration denied whenever an allegation was made. As in the other cases of Gestapo tortures and killings, such allegation in itself was considered a libel and an implicit attack on state and Party, and many a person was prosecuted criminally and/or detained in a concentration camp for having made such statements.

Such acts can therefore be prosecuted as murder, battery, assault, libel, enforced prostitution and rape, theft (in case of confiscations), or any other applicable provision of the German Penal Code, qualified usually by the fact that the perpetrators were officials. It seems advisable to base indictment for domestic Gestapo crimes upon any of the great number of cases involving such acts, and not on acts which, on their face at least, were covered by Nazi law.

2. International Crimes. Crimes committed outside Germany or within Germany against foreigners deported there are even more easily proved as punishable acts. Not only murder, battery, and other extreme cases but also mere detention can be considered here as illegal. Not only was German Gestapo law -- with the exception of annexed territory, such as Austria, or some other countries, such as the Protectorate -- never formally extended to invaded and occupied countries, but such acts were clearly violations of the international rules concerning the law of belligerent occupation.

Indictments can thus be based upon the penal laws of the countries concerned. As far as immediate executors of crimes are concerned, some

location of their crime will in most cases be easily found. That location would establish what law was applicable. But in the case of many initiators of policies, and supervisors of actions, it may be more difficult to say which particular law is applicable, particularly if the action involved in its phases different countries (deportation from France to Germany, or deportation from Netherlands through Germany to Poland, etc.). Since such a crime usually constituted one continuous act, some rule should be developed as to the law to be applied to such cases. In the case of the Nazi "planners" of such policies, and of the central supervisors, this law would most logically be German penal law.

B. Responsibility of Leaders and Instigators

After the illegality and punishability of Gestapo acts have been proved in a specific case, it remains to be shown who can be made criminally responsible for the commission of the act. It is clear that whenever a clear line of administrative or, in case of the para-military formations (Death's Head, etc.), of military subordination and superordination can be shown, every person in the specific line of jurisdiction will be responsible, from the official who made the basic decision and gave the supreme directive down to the executor of the policy or action. "Superior orders" should not be considered as an excuse in the case of underlings, because in almost all these cases the orders concerned were clearly illegal. In other words, such orders constituted instigations to commit a crime, in which case no inferior is bound to obey the order. Whether, and at what level, to draw a line and to drop prosecution of certain lower officials or persons, such as members of execution squads, because of the danger to which they would

have been exposed by refusal to obey orders, would be a matter of political decision. Such personal danger should not, however, be generally considered as a valid excuse. As will be shown below, officials and members of the Gestapo joined that organization voluntarily and therefore have to bear the consequences of their decision.

Jurisdictional responsibility will thus lie with the members of all offices and agencies which have been described above as parts or adjuncts to the Gestapo. Thus, if the crime in question was committed against an inmate of a concentration camp, persons who at the pertinent time were employed in the following offices, agencies or organizations, may be responsible:

1. Main Department IV (Gestapo Office) of the RSHA.
2. Office Group D of the WVHA (until 1942, Inspector of Concentration Camps plus certain other offices in the central SS administration).
3. Regional State Police (Main) Offices and branch offices.
4. Higher SS and Police Leaders and their Inspectorates of Security Police and SD, in particular sections dealing with Gestapo affairs.
5. In occupied territory, Higher SS and Police Leaders and their Commanders of Security Police and SD, in particular sections IV of the office of these commanders.
6. In occupied territory, Security and SD commandos and other agencies subordinated to the Commanders of Security Police and SD.
7. In occupied territory, SS Economists (Wirtschafter).
8. Administrative staff of concentration camps.
9. SS formations (until June 1934 also SA formations) employed for guarding camps, notably Death's Head Formations.
10. Women employed as guards in camps.
11. Members of SA, General SS, SS Special Troops, and of the general police who may have acted for the Gestapo, e.g., in guarding prisoners during interrogations, on transport, etc.
12. Members of the central agencies set up for the regulation of Jewish affairs in various capitals of occupied countries.

In addition, of course, criminal responsibility always attaches to the chief of the RSHA (i.e., the chief of the Security Police and SD),

the chief of the German Police, the Reich Minister of the Interior, and the Führer. The problem arises, particularly with regard to the responsibility of higher leaders, whether such leaders can be made responsible even if specific orders and directives on their part can not be found. Thus, it may well be that orders referring to the initiation of the extermination policy against Jews were never put in writing. Reference may be made to a special paper,[1] in which it is shown that according to the broad meaning given to the "leadership principle" by the Nazis themselves, leaders can be made responsible for whatever has been done within their sphere of material and regional jurisdiction, unless it can be proved by them that the acts in question not only were in contradiction to the general policy laid down by them but also that they did all in their power to prevent the action from being executed.

In this connection mention should be made of the possible excuse of having tried to help Gestapo victims in this or that particular case. It can be expected that most accused will try to show, and may be able to prove, that they have in some instance acted in favor of a prospective victim. Such acts of "insurance," in particular if committed toward the later phases of the regime, should not be considered as a valid excuse, since they will in most cases have actually been undertaken in order to be able to present such an excuse. Only if the official in question can be shown by plausible evidence, notably on the part of a number of "victims," to have consistently acted in favor of such victims, if, in other words, he can be shown practically to have been a kind of anti-Nazi using his official

1. See paper on the "Leadership Principle and its Implications in the Nazi System."

position to favor Gestapo victims, should such an excuse be considered valid.

C. Membership Responsibility

It has been proposed to indict certain Nazi organizations as such, i.e., as criminal conspiracies, so that any participants could be prosecuted merely on the basis of their membership. The Gestapo can certainly be included among such organizations. In spite of the fact that the Gestapo was formally established as part of the police and remained so, it has been pointed out above that in actual fact it was created with the intention of becoming a separate instrument of terror which would be free from bureaucratic and other impediments hampering an "ordinary" agency, and thus "ready to strike" (schlagfertig). Thus, the Gestapo was set up as an independent branch of the police, with a staff carefully selected for its ruthlessness and reliability, with lines of jurisdiction of its own, with a separate budget, etc. The Gestapo thus came to form a "state within the state," and the popular impression which regarded the Gestapo as a Nazi institution quite apart from anything else, in particular from the ordinary agencies of the administration, was certainly justified in fact, if not in law.

Members of the organization were not forced into it but joined it because they were trusted members and adherents of the regime, specifically endowed and trained for their tasks. Most of them came into the organization as members of a Party organization, notably the SS. They were an elite which devoted itself to a specific purpose. Their membership in itself can therefore be considered as participation in a vast conspiracy, a conspiracy directed toward the commission of the crimes everyone, and in

particular members of Party or SS, knew was the main function of the Gestapo.

Thus, any member of the Gestapo, and of such organizations closely connected with Gestapo functions as the Death's Head Formations, could be indicted merely on the basis of membership in the organization. This fact would, of course, not exclude prosecution for particular crimes of those persons who can be shown to have participated in the commission of such crimes.

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Appendix I. LIST OF STATE POLICE MAIN OFFICES AND STATE POLICE OFFICES [1]

Koenigsberg: Chief: Freytag

Tilsit. Chief: Boehme, later Jahr

Zichenau-Schroettersburg. Chief: Pulmer, later Schulz

(Allenstein. Chief: Waechter)

Stettin. Chief: Bruno Mueller

(Koeslin. Chief: Redwed)

(Schneidemuehl. Chief: Freytag, later Wenzel)

Berlin. Chief: Bovensiepen, later Bock

Frankfurt a.d. Oder. Chief: Wolff, later Richter

Potsdam. Chief: Heller

Dresden. Chief: Willy Mueller

Leipzig. Chief: Kaussmann

Chemnitz. Chief: Thuemmler, later Schoeneseiffen

(Plauen. Chief: Klein)

Reichenberg. Chief: Schroeder, later Donk

Stuttgart. Chief: Mussgay

Düsseldorf. Chief: Albath, later Noske

Cologne. Chief: Sprinz

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1. Sources: SHAEF-Handbook on German Police (E.D.S./G/10, April 1945) and Taschenbuch für Verwaltungsbeamte, 1943. The offices are arranged according to Main Offices (underlined) with Offices over which they had jurisdiction. Offices over which no Main Office had jurisdiction, are listed at the end as "unattached." Offices which for the duration were demoted to branch offices are put in parenthesis. The other branch offices are not listed.

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Coblenz. Chief: Sens, later Christmann

(Aachen. Chief: Bach)

(Trier. Chief: Hartmann, later Wendling)

Muenster. Chief: Landgraf

(Bielefeld. Chief: Diele)

(Dortmund. Chief: Illmer, later Roth)

Karlsruhe. Chief: Schick, later Gmeiner

Munich. Chief: Schaefer

(Augsburg. Chief: Brandl)

Breslau. Chief: Scharpwinkel

(Liegnitz. Chief: Wagner)

Kattowitz. Chief: Mildner, later Thuemmler

Oppeln. Chief: Stueber

Troppau. Chief: Kulzer

Hamburg. Chief: Kreuzer, later Blomberg

Kiel. Chief: Henschke

(Luenoburg. Chief: Westermann)

Hannover. Chief: Batz, later Rentsch

(Huldesheim. Chief: Baumeister)

(Osnabrueck. Chief: Rascher)

Magdeburg. Chief: Bischoff, later Mohr

Halle. Chief: Braune, later Kolitz

(Dessau. Chief: Rose)

Nürnberg-Fuerth. Chief: Otto

Regensburg. Chief: Popp

Carlsbad. Chief: Gmeiner, later Littow

(Wuerzburg. Chief: Heisig)

Vienna. Chief: Huber

Linz. Chief: Leitsmann, later Bast

Graz. Chief: Machule, later Groskopf

Innsbruck. Chief: Hoffmann

Klagenfurt. Chief: Weimann, later possibly Christmann

Salzburg. Chief: Hueber

Danzig. Chief: Venediger

Bromberg. Chief: Rux

(Graudenz. Chief: Thomsen, later Worm)

Posen. Chief: Stossberg

Litzmannstadt. Chief: Bradfisch

(Hohensalza. Chief: Hegenscheidt)

Prague. Chief: Gerke

Brünn. Chief: Noelle

Gestapo Offices not attached to any Main Office:

Schwerin. Chief: Oldach

Kassel. Chief: Nedwed

Frankfurt a.M. Chief: Poche, later Breder

Weimar. Chief: vom Felde, later possibly Schroeder

(Erfurt. Chief: Huettig)

Bremen. Chief: Zimmermann

(Wesermunde. Chief: Hilmer)

(Wilhelmshafen. Chief: Frohmann)

Braunschweig. Chief: Kuhl

Darmstadt. Chief: Mohr, later Girke or Schwinn

Saarbrucken. Chief: Rentsch, later Spann

(Neustadt a.d. Weinstrasse. Chief: Kaepel, later Lickleder)

Appendix II

List of Commanders of Security Police and SD[1]

Strasbourg, for Alsace: Fischer

Kommandeur at Strasbourg

Metz, for Lothringen: Dunckern

Prague, for Bohemia and Moravia: Weinmann

Cracow, for Government General: Schoengarth, then Bierkamp

Kommandeure at

Cracow: Grosskopf, then Batz
Lemberg: Tanzmann
Lublin: Mueller, then Puetz
Radom: Liphardt, then Ilmer
Warsaw: Hahn

The Hague, for Netherlands: Harster, then Schoengarth

Oslo, for Norway: Fehlis

Kommandeure at

Bergen: Weimann
Drontheim: Flesch
Stavanger: Wilkens
Tromsoe: Pocke

Copenhagen, for Denmark: Bovensiepen

Belgrade, for Serbia: Schaefer

Riga, for Ostland: Achamer-Pilfrader, then Fuchs

Kommandeure at Kauen, Minsk, Reval, Riga

1. This list includes only the Commanders (Befehlshaber) of the Security Police and the SD, with jurisdiction in occupied territory, not the Inspectors (or sometimes also Commanders) of Security Police and SD in the Reich and certain annexed territories; also included are the Kommandeure of Security Police and SD found in several occupied territories, who are always under some Commander or Inspector of Security Police and SD. Information is based on Taschenbuch für Verwaltungsbeamte 1943 and MIRS-EDS-Handbook on German Police.

Kiev, later Rowno, for Ukraine: Thomas, then Boehme

Kommandeure at

Kharkow, Dniepropetrowsk, Kiew, Nikolajew, Rowno (Luck), Zhitomir, Tschernigow, Stalino, Simferopol

Paris, for France: Knochen

Kommandeure at

Angers, Bordeaux, Chalons-sur-Marne, Dijon, Nancy, Orleans, Paris, Poitiers, Rennes, Rouen, St. Quentin, Limoges, Lyon, Marseilles, Montpelliers, Toulouse, Vichy.

Brussells, for Belgium: Ehlers

Budapest, for Hungary: Geschke

Kommandeure attached to Commanders or Inspectors in Greater Germany:

Byalistok: Altenloh (under Koenigsberg)
Luxembourg: Hartmann (under Wiesbaden)
Marburg (Maribor): Lurker (under Salzburg)
Veldes: Vogt (under Salzburg)

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Appendix III

Official Document Concerning Liquidation of Prisoners[1]

Translation

KdS Radom
IV 6 b

21 July 1944

To: Adst. Tomaschow for SS-Hatuf. Thiel.

Subject: Clearance of Prisons

The BdS in the General Government issued the following order in his telephonic message no. 14002 of 20.7.44, IV 6 no. 82/44 gRs.:

"I again stress the fact that the number of inmates of the Sipo and SD prisons must be kept as low as possible. In the present situation particularly suspects handed over by the Orpo need only be subjected to a short, formal interrogation as long as there are no serious grounds for suspicion. They are then to be sent by the quickest route to a concentration camp, should no court proceedings be necessary or should there be no question of discharge. Please keep the number of discharges to an absolute minimum. Should the situation at the front necessitate this, early preparations are to be made for the total clearance of the prisons. In the case of sudden emergency, which precludes the evacuation of the prisoners, they are to be liquidated, and the bodies disposed of as far as possible (burning, dynamiting of the building, etc.). In similar circumstances Jews still employed in the armaments industry or on other work are to be dealt with in the same way.

It is to be avoided under all circumstances that prisoners or Jews should be liberated by the enemy, whether it be the WB or the Red Army, or should fall into their hands alive."

The above is to be noted and strictly complied with.

(Signed) Illmer

This letter received the following internal distribution by Leiter IV at Adst. Tomaschow:

SS-Ostuf. Preuss, personal
Leiter III
Leiter V
Sachgebietsleiter IV 1, IV 2, IV 3, and IV 6.

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1. Abbreviations used in this document mean the following: KdS - Kommandeur der Sicherheitspolizei; Adst. - Aussendienststelle; BdS - Befehlshaber der Sicherheitspolizei; gRs - Geheime Reichssache (Secret Reich Matter); Sipo - Sicherheitspolizei; Orpo - Ordnungspolizei; The meaning of WB is not known.

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Appendix IV

Document Concerning Deportation of Jewish Inmates of Concentration Camps

Translation

Copy

Economic and Administrative Main Office of the SS
Office Group D - Concentration Camps

Oranienburg, 5 October 1942

D II/1 23 Ma./Hag.-

Concerns: Jewish Inmates

To the Commandants of the Concentration Camps

Bu., Da., Flo., Gro-Ro., Mau., Na., Neu., Nie., Rav., Sh., St.:

The Reich leader SS desires that all concentration camps located in Reich territory be made free of Jews (judenfrei). Therefore Jews who at present are inmates of your concentration camp are to be deported to Auschwitz or Lublin.

I request you to report to me the number of Jews at present in your concentration camp until the 9th of this month and to indicate specifically who among these Jews are employed at places which do not permit of their immediate deportation.

The Chief of Amt D II

(signed Maurer, SS-Obersturmbannfuehrer)

Signing for correctness of copy:
Natzweiler, 7 October 1942

Volkmar
SS-Hauptscharfuehrer and Adjutant

(in writing) October 7th, 1942, 32 Jews reported for deportation

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